UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/807,011	06/29/2001	Philippe Letellier	PF980068	8360

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EXAMINER
CAO, DIEM K

ART UNIT	PAPER NUMBER
2126	

DATE MAILED: 02/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	09/807,011	LETELLIER ET AL.
	Examiner	Art Unit	
	Diem K Cao	2126	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *16 September 2004*.

2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-13* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-13* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All   b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

1.   Claims 1-13 are pending in the application. Applicant has amended claims 1, 3, 8, 9 and

added claims 10-13.

Claim Rejections - 35 USC § 112

2.   Claims 10-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for

failing to particularly point out and distinctly claim the subject matter which applicant regards as

the invention.

Claims 10-13 recite the limitation "the application management module". There is

insufficient antecedent basis for this limitation in the claims.

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

4.   Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Karlton et al.

(U.S. 5,802,284) in view of Menand et al. (U.S. 5,563,648).

5.   **As to claim 1**, Karlton teaches a device for managing an application (set-top software

environment for set-top computer 112; col. 4, lines 48-50), an application management module

(Application manager 302, a script interpreter 306; col. 4, line 48 – col. 5, line 8) which can

execute at least one management instruction set (executable file 402, a script; col. 6, lines 1-19),

the management instructions modifying via functions the state of the device (display the name of

selected viewer application or a short movie, retrieves the selected viewer application; col. 5,

lines 20-31) before the running of an application (When a viewer application ... has successfully

downloaded; col. 5, lines 20-34), the management instructions being executed before the

launching of the application and/or at the end of the running of the application (the executable

retrieves ... and launches selected viewer application; col. 6, lines 1-9. The examiner interprets

the limitation as "or" scenario for rejection purpose.), the management instructions being

provided by an external source such as a broadcast network (download the cover bundle; col. 5,

lines 59-64) or user command instruction means (user input, user changes channel; col. 2, lines

8-27).

6.   However, Karlton does not explicitly teach an execution system, an operating system,

and access the resource of the device. Menand teaches an execution system (interpreter; col. 4,

lines 62-67), an operating system (central processing unit; col. 3, lines 15-21), and access the

resource of the device (An audio processor 418 ... I/O adapter; col. 3, lines 22-36 and Each

hardware adapter ...which is a system loader; col. 5, lines 32-47).

7.   It would have been obvious to one of ordinary skill in the art at the time the invention

was made to combine the teaching of Karlton and Menand because it provides a method to

maintain proper synchronization between the applications, and the sound and graphics being

generated by the application and the audio and video components being received.

8.   **As to claim 2**, Karlton teaches the functions of the management instructions cannot be

executed by the operating system or the execution system (If an executable file is found, it is

launched by application manager …executes the script; col. 6, lines 1-15).

9.   **As to claim 3**, Karlton teaches means for loading the management instruction set from a

source of management instruction to the application manager (application manager downloads

that application … requests the cover bundle, which in turn retrieve the view application; col. 5,

lines 17-34).

10.   **As to claim 4**, Karlton teaches the source of the management instruction is the

application (a view application employs a cover bundle; col. 5, lines 20-22).

11.   **As to claim 5**, Karlton the source of the management instructions is the user interface

(the cover application may also be responsive to user input; col. 2, lines 18-34).

12.   **As to claim 6**, Karlton teaches the device possesses a standard management instruction

set in memory (Application manager … terminating all other resident applications; col. 4, lines

60-64).

13.   **As to claim 7**, Karlton does not explicitly teach the application manager comprises

several sets of management instructions originating from several sources of management

instructions, a specified management instruction set being assigned to each application.

However, Karlton teaches there are multiple viewer applications, and each viewer application

might employs a cover bundle (Viewer application ... at a time; col. 4, line 65 – col. 5, line 2 and

a view application employs a cover bundle; col. 5, lines 20-22), and the application manager

executes the executable file in each bundle (If an executable file ... manager; col. 6, lines 1-9). It

would have been obvious to one of ordinary skill in the art at the time the invention was made to

improve the system of Karlton to have the application manager to comprise those bundles after

being download to the set-top computer because it would improve the performance of the system

by execute from the same application.

14.   **As to claim 8**, Karlton does not teach wherein binary priority indicators are associated

with the management instructions, the applications manager executing first the management

instructions whose priority is the highest. However, Karlton teaches there are multiple

applications in the set-top computer and only one application is executed at a time, and the

application selected by the viewer via the remote will be executed immediately, i.e. the

instruction (task) from the user to the device has the highest priority and being executed first. It

would have been obvious to one of ordinary skill in the art to apply priority to applications in

order to decide which application to execute.

15.   **As to claim 9**, it corresponds to a device claim of claim 1, and is rejected under the same

ground of rejection.

16.   **As to claim 10**, Karlton and Menand do not explicitly teach if several management

instruction sets can be applied to an application before the launching of the application, the one

with the highest priority being used by the application manager. Karlton teaches a cover bundle

is applied to an application before the launching of the application (the executable retrieves ...

and launches selected viewer application; col. 6, lines 1-9). Menand teaches viewers can change

channels at any time and the new program will be executed (col. 6, lines 5-30). It would have

been obvious when the viewer changes the channel, instruction to end the current application

will have the higher priority than the instruction to execute the cover bundle.

17.   **As to claim 11**, Karlton and Menand do not explicitly teach a management instruction

contains the priority of an application, at the reception of such instruction, the application

manager modifying the priority of the applications executed in the device. However, Karlton

teaches upon selection of a viewer application by the user (col. 5, lines 22-31), the cover bundle

and the viewer application will be played by the application manager (col. 6, lines 1-9). It would

have been obvious to one of ordinary skill in the art, the task generated by the user action is

managed by the Operating System, and each task has its own priority for execution in the system.

By playing the movie after user selection, inherently, the viewer application has the highest

priority of all other applications.

18.   **As to claim 12**, Karlton and Menand do not explicitly teach the application manager

allows a resource of the device to the application having the highest priority. Menand teaches the

resource is allocated to the program that has been selected by the viewer (col. 6, lines 3-21). It is

obvious to one of ordinary skill in the art that the application selected by the user (user changes

channel) has the highest priority.

19.   **As to claim 13**, Karlton and Menand do not explicitly teach a management instruction

contains an identifier of an application, at the reception of such instruction, the application

manager applies this management instruction to the specified application. Karlton teaches the

management instruction retrieves the selected viewer application (when the user selects a viewer

application ... retrieves the selected viewer application; col. 5, lines 22-25). It would have been

obvious the management instruction (cover bundle) should have the identifier of the application

in order to retrieve it.

Response to Arguments

20.   Applicant's arguments filed 9/16/2004 have been fully considered but they are not

persuasive.

21.   In the remarks, Applicant argued in substance that (1) Karlton and Menand do not teach

modifying via functions the state of the device before the running of an application executed by

the operating system and/or execution system, (2) Karlton does not teach the launching of an

application does not depend on the management instruction being provided by an external

source, (3) Karlton does not teach the set top box has default parameter that is replaceable by

management instruction being provided by an external source such as a broadcast network or

user command introduction means, and (4) Karlton does not teach the management instructions

cannot be executed by the operating system or the execution system.

22.   Examiner respectfully traversed Applicant's remarks:

As to the point (1), Applicant discloses the definition of the limitation "modifying via functions the state of a device before running of an application and/or at the end of the running of the application" on page 11, line 5 of specification, and again on page 7, lines 16-22 of amendment as "the application is being initiated, an instruction set must be applied". Karlton teaches when the user selects a viewer application, the associated cover bundle is displayed first while the application being download. Though, playing the cover bundle and download the viewer application has change the state of the device (from whatever task was executed before). Therefore, Karlton teaches the limitation.

As to the point (2), Karlton teaches the cover bundle retrieves the viewer application, the application manager launches the viewer application after the download is completed. Therefore, Karlton teaches the limitation.

As to the point (3), the limitation argued by the Applicant is not in the claim (the default parameter is replaceable). Applicant only claims "the device possesses a standard management instruction set in memory". All the device should possess a standard instruction so it is operable.

As to the point (4), Applicant did not give any reason/explanation why the cited passage provided by the examiner in the last Office action does not meet the claim language. Therefore, the previous rejection is maintained.

Conclusion

23.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Matsumoto (U.S. 5,835,765) teaches "Computer Operation management system for a computer operating system capable of simultaneously executing plural application programs".

- Mackinnon (U.S. 6,016,158) teaches "Object oriented communication network".

- Hendricks (U.S. 6,463,585 B1) teaches "Targeted advertisement using television delivery systems".

24.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Diem K Cao whose telephone number is (571) 272-3760. The examiner can normally be reached on Monday - Friday, 8:00AM - 3:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Meng-Ai An can be reached on (571) 272-3756. The fax phone number for the

organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this action should be mailed to:
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